



### **DUTY TO INVESTIGATE**

MCL 722.923 states that the Office of Children's Ombudsman was established,

*"as a means of effecting changes in policy, procedure, and legislation, educating the public, investigating and reviewing actions of the department, child placing agencies, or child caring institutions, monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment, and improving delivery of care of children in foster care and adoptive homes..."*

### **OMBUDSMAN DISCRETION**

MCL 722.924 requires the ombudsman to establish procedures for conducting investigations and reporting findings and recommendations that result from investigations.

MCL 722.926 gives the ombudsman sole discretion in determining whether to conduct an investigation. The ombudsman may investigate on his own initiative or after receiving a complaint. The ombudsman may investigate an administrative act:

- alleged to be contrary to law or rule, or contrary to DHS policy,
- imposed without an adequate statement of reason,
- based on irrelevant, immaterial, or erroneous grounds.

### **ACCESS TO DOCUMENTS**

MCL 722.926 and 722.928 allow the ombudsman access to the following documents during investigation:

- records and reports in the same manner as DHS has access under the Child Protection Law,
- medical records in the same manner as DHS under the public health code,
- mental health records in the same manner as DHS under the mental health code,
- records and documents in the possession of DHS and/or a child placing agency that the ombudsman considers relevant and necessary in an investigation, (documents must be produced within 10 business days)
- progress reports concerning the administrative processing of a complaint,
- access to DHS computer networks pertaining to CPS, foster care, and adoption.

## **OTHER INVESTIGATIVE TOOLS**

MCL 722.924, 722.925a, 722.926-722.927 allow the ombudsman to:

- request a court subpoena compelling the production of a record or report,
- hold informal hearings to compel testimony or production of evidence,
- file a petition requesting the court take jurisdiction of a child,
- file a petition with the court requesting termination of parental rights,
- refer a case to DHS to compel a CPS field investigation,
- pursue legislative advocacy in the best interests of children.

## **DUTY TO REPORT**

MCL 722.927 requires the ombudsman to:

- report any violation of state or federal criminal law to the county prosecutor or attorney general,
- refer a matter involving a violation of child placing agency rules to the Office of Children and Adult Licensing (OCAL).

## **LEGISLATOR ACCESS**

MCL 722.929 gives the legislature access to the following:

- upon its request, the legislature may receive copies of the ombudsman's reports of findings and recommendations,
- during a closed session of a legislative committee that has jurisdiction over family and children's services, information regarding DHS' handling of a case under the child protection law that is obtained or generated during an investigation conducted by the ombudsman,
- an annual report on the ombudsman's conduct, including recommendations regarding the need for legislation or for a change in policy or rules.

## **COMPLAINANT ACCESS**

MCL 722.929 and 722.930 provide a statutory complainant access to:

- information regarding DHS' handling of a case under the child protection law that is obtained or generated during an investigation conducted by the ombudsman,
- a copy of the ombudsman's findings and recommendations on the case,
- a copy of the department's response to the ombudsman's findings and recommendations and any epilogue statement,
- information that has already been made public,
- notification of the actions taken by the ombudsman and the DHS or child placing agency.

**RESTRICTED FROM RELEASE**

MCL 722.929 and 722.930 state that the ombudsman cannot release the following information to:

anyone:

- information regarding the whereabouts of a victim of domestic violence, unless ordered by a court
- the identity of the person who made a complaint to CPS, unless the person gives permission or ordered by a court
- information related to an ongoing CPS or law enforcement investigation

the general public:

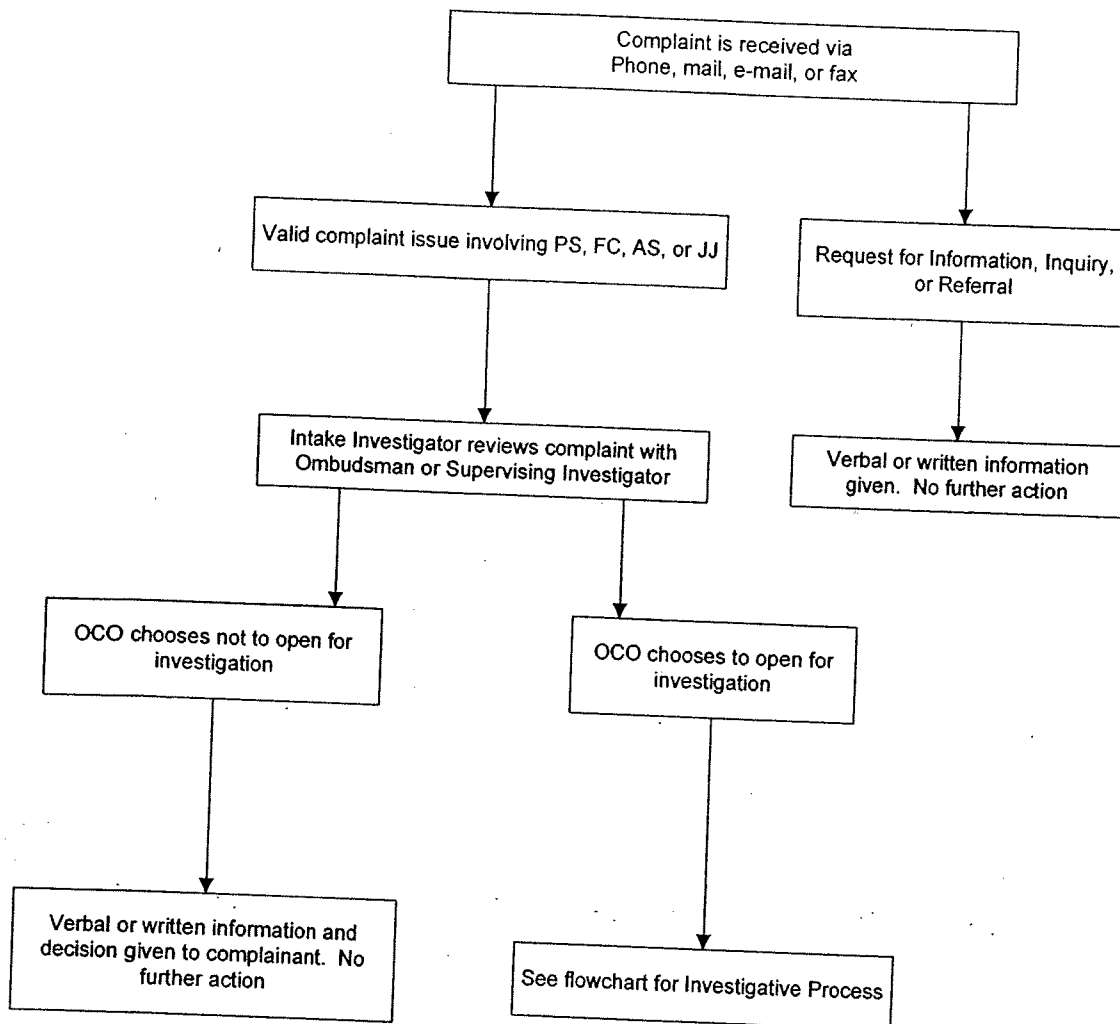
- mental health evaluations or treatment, substance abuse related treatment, medical diagnosis of a parent or child, records relating to domestic violence or educational records.

the complainant:

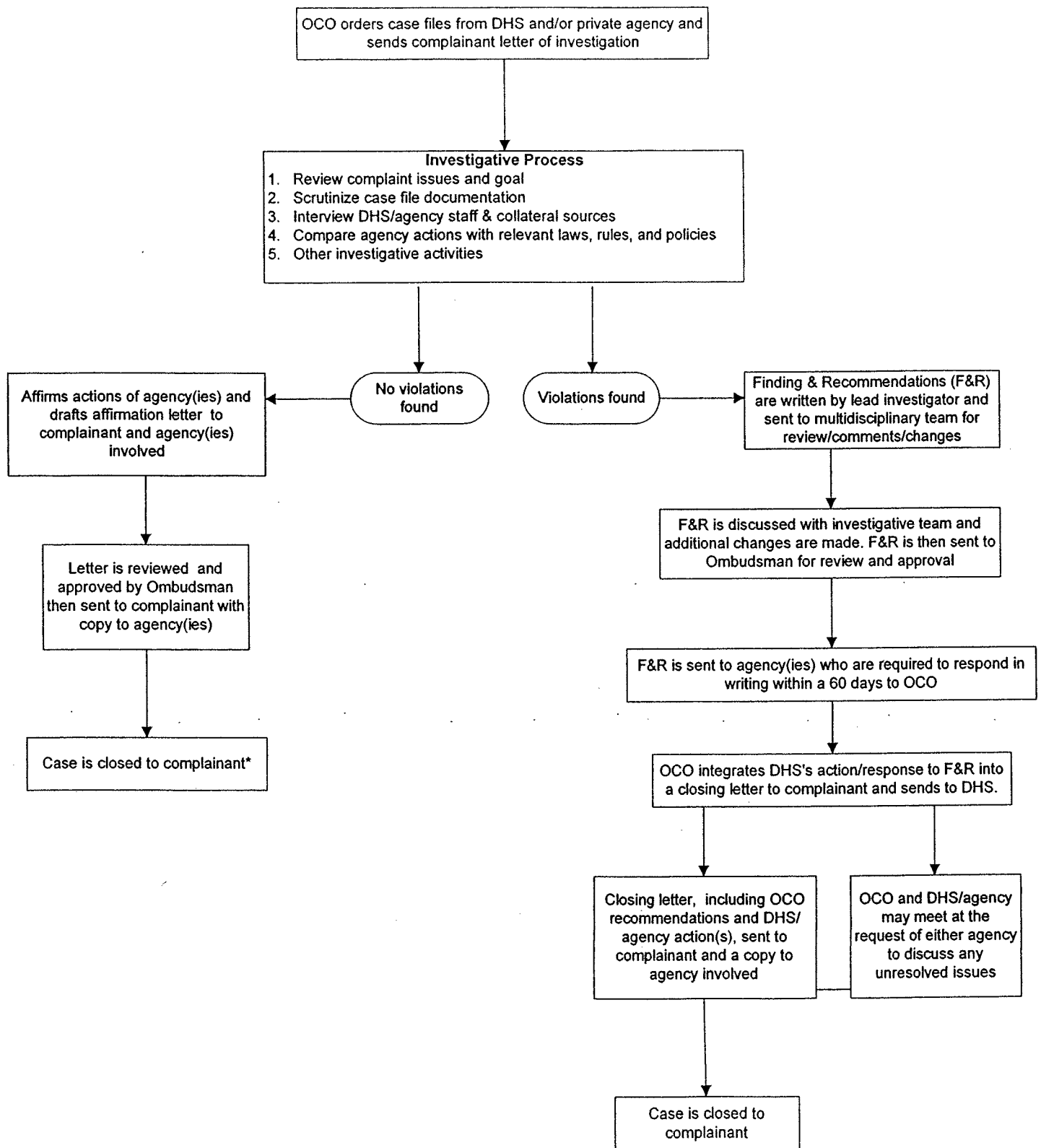
- information that will endanger the health or welfare of a child or another person.

*\* a record of the children's ombudsman is not subject to court subpoena, not discoverable in a legal proceeding, exempt from disclosure under the freedom of information act.*

## OCO Intake Process



## OCO Investigation Process



OCO may close case to a complainant based upon the issue they presented. However, the OCO may still write an F&R on the case based upon other issues that arose or were discovered during the course of the investigation.